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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,812	12/01/2003	Tsutomu Okada	17291	5537

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EXAMINER	
YABUT, DIANE D	
ART UNIT	**PAPER NUMBER**
3734	
MAIL DATE	**DELIVERY MODE**
07/09/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/724,812	OKADA, TSUTOMU	
	Examiner	Art Unit	
	DIANE YABUT	3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 April 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11,13-15 and 17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11,13-15 and 17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/21/2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-10, 13-15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ishikawa** (U.S. Patent No. **6,306,081**) in view of **Chu** (U.S. Patent No. **5,968,056**).

Claims 1, 3-6, 9-10, and 13-15: Ishikawa discloses a snare wire having a loop portion **17** at a distal end portion of the snare wire, a substantially cylindrical cap **10** including a cylindrical wall, and a holding mechanism ("anchor") configured to hold the loop portion of the snare wire in an inner or inwardly protruding portion **19** of the cylindrical wall such

that all portions of the loop portion are held interior of the cylindrical wall and the loop may be disengaged from the holding mechanism in a radially inward direction, and an attachment portion **3** which attaches the cap to an end portion of an endoscope **2**. The cap is elastic (Figures 5-6).

Ishikawa does not disclose the holding mechanism having a plurality of engagement pieces and a plurality of corresponding portions which hold the distal end portion of the snare wire between the engagement piece and the corresponding portion.

Chu teaches holding mechanism for a snare wire **70** that has a plurality of engagement pieces (adjacent to **90, 68a-c, 68a'-c'**) and a plurality of corresponding portions (in between **68a-c** and **90**, and **90** and **68a'-c'**) which hold the distal end portion of the snare wire between the engagement piece and the corresponding portion, said plurality of engagement pieces and being respectively distanced from each other in a circumferential direction of the circular end portion, and each of the engagement pieces is sectioned from the corresponding portion by a pair of vertical notches **90, 68a-c, 68a'-c'** which are distanced at the circular end portion in the circumferential direction and formed at a substantially right angle with the circumferential direction in that they possess a width (Figures 1 and 4). See annotated Figure 1 below.

Chu also discloses the plurality of engagement pieces (adjacent **68a-c** and **90**, and **90** and **68a'-c'**) being arranged in the same interval in the circumferential direction and each of the engagement pieces and each of the corresponding portions (in between **68a-c** and **90**, and **90** and **68a'-c'**) directly contacting opposite sides of the end portion of the snare wire to hold the end portion therebetween (Figure 1).

The inner flange (at distal end of **10**) has a plurality of lateral notches **90, 68a-c, 68a'-c'** extending in the circumferential direction, and each said pair of vertical notches extend toward the cylindrical wall from both ends of each lateral notch and the circular end portion has a plurality of lateral notches extending in the circumferential direction between the inner flange and the cylindrical wall, and each said pair of vertical notches **90, 68a-c, 68a'-c'** extend toward the cylindrical wall from both ends of each lateral notch (Figure 1).

Chu also discloses the corresponding portion (in between **68a-c** and **90**, and **90** and **68a'-c'**) having a flange provided so as to inwardly protrude from the cylindrical wall, the engagement piece (adjacent **90, 68a-c, 68a'-c'**) having separation portions separated from each other by a notch portion formed in the inner flange, and the snare wire is supported between the flange and the separation portions (Figure 1).

Chu discloses the engagement pieces and the corresponding portions in between **68a-c** and **90**, and **90** and **68a'-c'**) being alternately arranged in the circumferential direction of the circular end portion (Figure 1).

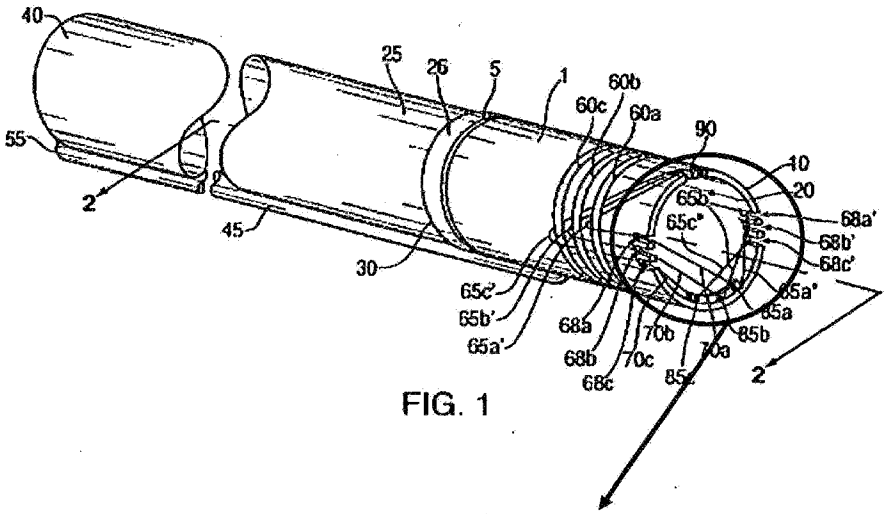
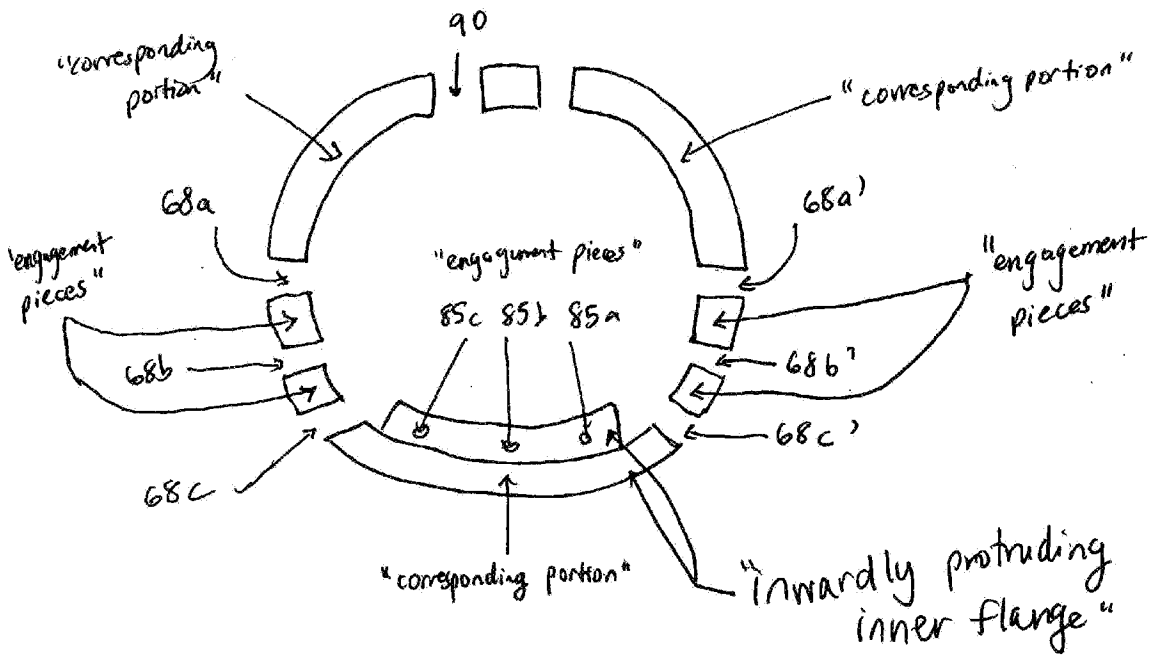


FIG. 1

(FRONT VIEW)



It would have been obvious to one of ordinary skill in the art at the time of invention to provide a plurality of engagement pieces and corresponding portions, as taught by Chu, to Ishikawa in order to further ensure prevention of disengagement of the snare from the endoscope when conducting surgery.

Claims 2, 7-8, and 17: Ishikawa and Chu disclose the claimed device except for the engagement piece and the corresponding portion each elastically holding the snare wire therebetween, the engagement piece being able to swivel or bend to a side where the circular end portion is positioned with respect to the corresponding portion and the engagement piece holding the snare wire between its outer surface and one surface of the corresponding portion when caused to swivel and the snare wire being pressed against the corresponding portion by an elastic return force of the engagement piece. However, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an engagement piece and corresponding portion that elastically hold the snare wire therebetween and the engagement pieces and corresponding portions being able to swivel, depending on the material used to form the cap, such as an elastic, flexible polymer material well known in the art, since it was known in the art that flexible polymeric materials used in endoscopic caps are biocompatible and allow for greater movement and manipulation of snare wires.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Ishikawa** (U.S. Patent No. **6,306,081**) in view of **Chu** (U.S. Patent No. **5,968,056**), as applied to claim 1 above, and further in view of **Smith** (U.S. Patent No. **6,517,539**).

Claim 11: Ishikawa and Chu disclose the claimed device, including a snare sheath **16** into which the snare wire is inserted, a flexible tube **5** which has an opening on an end side (Ishikawa, Figures 5-6), except for a fixture for fixing the snare sheath.

Smith teaches a fixture **354** for fixing the snare sheath being disposed around the snare sheath to inwardly press an outer peripheral surface of the snare sheath to fix the snare sheath and for preventing the snare sheath from moving in an axial direction of the snare sheath against the flexible tube (Figure 10; col. 7, lines 10-27). It would have been obvious to one of ordinary skill in the art at the time of invention to provide a fixture to prevent axial movement of the snare sheath against the flexible tube, as taught by Smith, to Ishikawa and Chu in order to allow the snare to move relative of the sheath.

Response to Arguments

5. Applicant's arguments with respect to claims 1-11, 13-15, 17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANE YABUT whose telephone number is (571)272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diane Yabut/
Examiner, Art Unit 3734

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3731